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11-20-02

Assistant Commissioner for Patents
Washington, D. C. 20231

By United States Postal Service as EXPRESS MAIL, article No.
ET663103515US on Nov. 8, 2002, See Attached Certificate

Re: Patent Application of Brad A. Armstrong
Applicant's File F32

Serial No.: 09/721,848 Filed: 11/22/2000

Title: SHEET CONNECTED SENSORS WITH VIBRATION

Mailing address: Brad A. Armstrong
P.O. Box 1419
Paradise, CA 95967

Examiner: Chow, Doon Y
Group Art Unit: 2675

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Technology Center 2600

IN RESPONSE TO THE EXAMINER'S COMMUNICATION DATE MAILED 05/20/02

Sir:
REMARKS

This is in response to the Written Office Action mailed 05/20/02 and additionally to the in-person interview at the PTO between the Applicant and the Examiner on 07/25/02 regarding the above specified patent application. Would the Examiner please amend the application as herein requested. After entering the amendments, please reexamine the application as amended in view of the herein remarks favoring allowance, finding all claims allowable. Thank you.

Interview Summary

On 07/25/02 Applicant / Inventor Brad A. Armstrong met with U.S. Patent Examiner D. Chow, the only two parties in the meeting, at the U.S. Patent and Trademark Office in the Examiner's Office. Armstrong's pending patent application 09/721,848 and the outstanding Office Action of 05/20/02 on said

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02 FC:2202 306.00 OP
03 FC:2201 672.00 OP

application, responsive to Applicant's communication of Feb. 22, 2002 were a subject of the meeting.

For the record, Applicant's communication of Feb. 22, 2002 and the Information Disclosure Statement included therewith were both mailed using the U.S. Express Mailing Process on Feb. 21, 2002, but the PTO mail room stamped the Feb. 22, 2002 actual received date instead of the Feb. 21 "date mailed" date. Applicant will refer to the Feb. 21 communication herein as the Feb. 22, 2002 communication.

Discussed and agreed to was:

1) That the controller of the relied upon reference of Goto et al U.S. Patent 6,231,444 in the 05/20/02 Office Action as "prior art" is not prior art. It was agreed that the controller of Goto et al U.S. Patent 6,231,444 is in fact relevant art to Armstrong's controller as described and claimed. The Goto et al patent teaches a game controller for controlling game software running on game consoles and the like which is in an analogous field to the present invention teaching 6DOF or three-dimensional graphics control for games and other applications. Due to the effective date of the Goto et al patent and the effective date of Armstrong's application having a 35 U.S.C. 120 priority claim, the controller of Goto et al U.S. Patent 6,231,444 is analogous art but not "prior art" to Armstrong's disclosed / claimed invention. Additionally, due to the effective date of the relied upon reference of Culver U.S. Patent 6,256,011 and the effective date of Armstrong's application having a 35 U.S.C. 120 priority claim, the controller of Culver U.S. Patent 6,256,011 is relevant art but not "prior art" to Armstrong's disclosed / claimed invention. Also due to the effective date of the relied upon reference Kobachi et al U.S. Patent 6,326,948 and the effective date of Armstrong's application having a 35 U.S.C. 120 priority claim, the disclosure of Kobachi et al U.S. Patent 6,326,948 is relevant art but not "prior art" to Armstrong's disclosed / claimed invention.

Thus, the Goto et al, the Kobachi et al and the Culver references will all be set aside, the rejections based thereon withdrawn, and a new examination will be made.

It was further agreed that Applicant's Fig. 38 is not prior art.

2) Further discussed and agreed to was that the Information Disclosure Statement submitted by Armstrong on 02/22/02 complies with all requirements and that the fee set forth in 37 CFR 1.17(p) was paid on 02/22/02, and thus the art set forth in the Information Disclosure Statement of 2/22/02 should be considered and made a matter of record.

3) It was agreed that all of the grounds for rejection and also the Finality of the 05/20/02 Office Action will be withdrawn due to points 1 and 2 above; Armstrong volunteered to amend the claims, not for reasons of patentability because the claims as last examined were in fact patentable, rather the claims are amended to define the invention more to the liking of Armstrong or to further clarify the invention and not because any rejection grounds had any validity whatsoever, and not because Armstrong agreed with any prior rejection basis. It was further agreed that the Examiner would wait for the amended claims (herein shown below) before proceeding with a new examination of the claims in light of the full Invention Disclosure Statement of 2/22/02 and any prior art the Examiner may additionally find.

4) Applicant asked if a Terminal Disclaimer submitted on 8/8/01 terminally disclaiming the present application to U.S. Patent 6,222,525 had been applied and the Examiner informed Applicant that the terminal disclaimer had been applied and that a petition for withdrawal is the proper procedure to have the terminal disclaimer withdrawn from the file.

5) Applicant stated all currently pending claims are allowable, and the Examiner agreed that allowable matter may be present.

End of Interview Summary

A check in the amount of \$1568.00 is attached to cover the fee payment for additional claims at \$978.00 (16 more independent claims and 34 more claims in total than previously paid for), the \$130.00 fee for the attached Petition for Withdrawing a Terminal Disclaimer, and \$460.00 for a Petition for Three Month additional time to respond. Small entity fees are applicable.

Regarding the terminal disclaimer submitted and paid for on Aug. 8, 2001 (8/8/01). Applicant is herein submitting a proper Petition for withdrawal of the terminal disclaimer under Title 37 Sec. 1.182 along with the appropriate fee payment per Sec. 1.17(h). Please withdraw the terminal disclaimer filed 8/8/01. Withdrawal of the Terminal Disclaimer is requested because the present claims are in no way suggested by the claims of Patent 6,222,525. The claims in the '525 patent have sensors connected by at least one flexible membrane sheet, and none of the present claims have the requirement of a flexible membrane sheet element. Therefore, the present claims cannot be obvious in light of the '525 claims and the withdrawal of the terminal disclaimer is proper.

Applicant submitted the terminal disclaimer only to expedite the advancement of this application toward issuance and because the submission of a terminal disclaimer is not an admission of anything, see *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991) and in particular therein the statement:

"a terminal disclaimer is of circumscribed availability and effect. It is not an admission of obviousness of the latter filed claimed invention in light of the earlier filed disclosure" .

Also, from the Manual of Patent Examining Procedure, Section 804.02, it is clear the U.S. Patent Office accepts and agrees with the Court's holding that a terminal disclaimer is not an admission of anything.

Applicant believes no double patenting exists between the current claims and any of Applicant's issued or pending claims, nevertheless, the Examiner is requested to examine the present claims with respect to all claims of Applicant's which are issued or pending under Inventor name Brad A. Armstrong regarding Double Patenting issues.

The withdrawal of the Finality and grounds for rejection recited in the 05/20/02 Office Action has been verbally agreed to by the Examiner in the in-person interview of 7/25/02.

It is requested that the Examiner make the withdrawal of the Finality and the withdrawal of the grounds for rejection a matter of the written record. Thank you.

The Information Disclosure Statement of 2/22/02 has been agreed to be considered and made a matter of record.

The 05/20/02 Office Action Summary has been read as was indicated in the Interview of 7/25/02.